

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JIMMIE STEPHEN.

Petitioner.

Civil No. 08cv0357-LAB (BLM)

HERNANDEZ, et al.,

Respondents.

**ORDER GRANTING APPLICATION
TO PROCEED IN FORMA PAUPERIS**

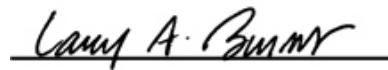
17 On February 25, 2008, Petitioner, a state prisoner proceeding pro se, filed a Petition for
18 a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner neither paid the filing fee nor
19 filed a request to proceed in forma pauperis. In addition to failing to satisfy the filing fee
20 requirement, the Petition failed to state a cognizable claim, failed to allege exhaustion of state
21 court remedies, and failed to name a proper respondent. On February 29, 2008, the Court
22 dismissed this action without prejudice to Petitioner to file a First Amended Petition in an
23 attempt to cure those pleading defects. Petitioner was instructed that in order to proceed with
24 this action he had to satisfy the filing fee requirement and file a First Amended Petition on or
25 before April 15, 2008.

26 Petitioner has now filed an application to proceed in forma pauperis but has not filed an
27 amended petition. A review of Petitioner's in forma pauperis application indicates that he has
28 no funds on account at the California correctional institution in which he is presently confined,

1 and cannot afford the \$5.00 filing fee. Thus, the Court **GRANTS** Petitioner's application to
2 proceed in forma pauperis, and allows Petitioner to prosecute the above-referenced action as a
3 poor person without being required to prepay fees or costs and without being required to post
4 security. However, for the reasons set forth in this Court's previous Order of dismissal, this
5 action remains **DISMISSED** without prejudice to Petitioner to file a First Amended Petition on
6 or before April 15, 2008.

7 **IT IS SO ORDERED.**

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9 DATED: March 6, 2008

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11 **HONORABLE LARRY ALAN BURNS**
12 United States District Judge

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